

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF TENNESSEE
NORTHEASTERN DIVISION AT GREENEVILLE

ERNEST LANE TRIBBLE,)	
)	
Plaintiff,)	
)	
v.)	
)	Civil Action No. 2:12-CV-00279
DR. WILLIAM R. KINCAID and)	
McLEOD CANCER AND BLOOD)	
CENTER, EAST TENNESSEE)	
HEMATOLOGY-ONCOLOGY, P.C.,)	
)	
Defendants.)	

MOTION FOR RULE 11 SANCTIONS

Come now East Tennessee Hematology-Oncology, P.C., and William R. Kincaid, M.D., and move this Honorable Court for Sanctions pursuant to Rule 11(c)(2), Fed. R. Civ. P., for the following reasons and each of them:

1. The Complaint accuses the Defendant, Dr. William Kincaid, of administering “watered down”, or other improper chemotherapy drugs to the Plaintiff’s deceased. The practice group, East Tennessee Hematology-Oncology, P.C., is named by virtue of vicarious liability. The Defendant is accused of “medical fraud” pursuant to the Response to Motion to Dismiss.
2. The Defendant did not do so, and the allegations in the complaint are completely false and bogus. The factual contentions have no evidentiary support and this is a frivolous lawsuit.
3. A modicum of investigation would have shown the charges are completely baseless and without merit, and have been to the Defendant’s detriment, through

news stories on the television and newspapers. The Complaint was filed for purposes of publicity. The Defendant has had to defend the completely false and baseless charges at expense for which he prays for damage.

4. The Defendant requests an Order allowing him to file the medical records in his possession, and otherwise offer testimony about his treatment or lack thereof of Wanda Ruth Tribble, notwithstanding provisions of HIPAA, inasmuch as the allegations of the medical health of Wanda Ruth Tribble are directly at issue in this cause. See 45 C.F.R. 164.512 (4)(e)(1)(I). U.S. Dept. of Health and Human Services, Health Insurance Portability and Accountability Act of 1996, Publ. Law 104-191, 110 Stat. 1936.

5. The Defendant, who did not administer chemotherapy drugs to Plaintiff's deceased, requests such further relief to which he may be entitled.

Now, wherefore the Defendants move to for sanctions pursuant to Rule 11(c)(2), Federal Rules of Civil Procedure..

Respectfully submitted,

William R. Kincaid, M.D., and East Tennessee
Hematology-Oncology, P.C.

By: sl Charles T. Herndon IV

s/ Charles T. Herndon IV

Charles T. Herndon, IV (No. 001366)

Elizabeth M. Hutton (No. 026390)

HERNDON, COLEMAN, BRADING & McKEE

Counsel for William R. Kincaid, M.D., and East Tennessee

Hematology-Oncology, P.C.

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CERTIFICATE OF SERVICE

I hereby certify that on July 24, 2012, a copy of the foregoing Motion for Sanctions was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. Mail. Parties may access this filing through the Court's electronic filing system.

s/ Charles T. Herndon IV

Charles T. Herndon, IV (No. 001366)